

SPEECH

5.

OF

MR. CHAS. HUDSON, OF MASS.,

ON THE

CONSTITUTIONAL POWER OF CONGRESS OVER THE
TERRITORIES,

AND THE

RIGHT OF EXCLUDING SLAVERY THEREFROM.

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE U. S.,
JUNE 20, 1848.

WASHINGTON:

PRINTED BY J. & G. S. GIDEON.

1848.

SPEECH.

The House being in Committee of the Whole on the state of the Union on the Civil and Diplomatic Appropriation Bill, Mr. Hudson, having obtained the floor, said—

MR. CHAIRMAN:

I have witnessed with some degree of interest the debates which have arisen in this House on the subject of slavery—a subject which has been discussed, in a very great degree, by gentlemen from the southern section of the Union; and as they have expressed themselves fully and freely, I propose to give my views without reserve. Nor has my observation been confined to the present session, or the present Congress. When I first had the honor of a seat upon this floor, we had an express rule excluding the petitions of the freemen of the country, and the resolutions of sovereign States, if they even touched upon the subject of slavery. It was maintained at that time that the subject of slavery belonged exclusively to the States, and that Congress had nothing to do with the subject; and on this ground our friends from the South attempted to justify that arbitrary rule.

But when Texas was about to be annexed to this Union, the whole tone of certain gentlemen was changed; and it was then maintained that Congress not only had the power to annex foreign territory, to extend and sustain slavery, but that the Constitution required the full exercise of this power for this purpose.

In the Executive documents which accompanied the Tyler treaty of annexation, as submitted to the Senate, Messrs. Secretary Upshur and Calhoun place the necessity of annexation upon its true ground. They had learned that an unknown correspondent of some paper had related a story that Great Britain had designs upon Texas; that she desired the abolition of slavery there, and they were at once alarmed for the safety of the “peculiar institution.” Mr. Upshur, in his confidential despatch to our minister at the court of St. James, after speaking of the dreaded abolition of slavery in Texas by the advice or influence of Great Britain, uses this significant language:

“Texas lies immediately on the border of Louisiana and Arkansas. The slave would have nothing more to do than simply to cross the Sabine or the Red River, and he would find himself a free man. He would be very sure to profit by the opportunity. All the vigilance which the master could use, enforced even by a harsher discipline than he would be willing to exert, would avail nothing. Within a few years a large proportion of the slaves within reach of the border would seek refuge in Texas; and the remainder would be rendered valueless by discontent and dangerous insubordination. The slaveholder ought not to submit, and would not submit, to this.”

“The slaveholder would be compelled to rely on himself for redress. He would endeavor to reclaim his own slave by his own force.”

Here we have the distinct avowal of Mr. Upshur, that the great object of annexation is *to sustain and perpetuate negro slavery*. Mr. Calhoun even goes further than this, and declares, in repeated instances, that Texas was sought not only to prevent the abolition of slavery there, but he adds that we are, as a nation, bound by the “*sacred obligations imposed by the constitutional compact*,” to go out of the Union, and control the acts of foreign nations, in order to perpetuate domestic slavery. In his note to Mr. Packenham, the British envoy, to inform him that the treaty of annexation had been concluded, speaking of the

desire of England to see slavery abolished wherever it exists, and consequently in Texas, Mr. Calhoun says:

"To hazard consequences which would be so dangerous to the prosperity and safety of this Union, without resorting to the most effective measures to prevent them, would be, on the part of the Federal Government, *an abandonment of the most solemn obligation imposed by the guaranties*, which the States, in adopting the Constitution, entered into to protect each other against whatever might endanger their safety, whether from without or within. Acting in obedience to this *obligation*, on which our Federal system of Government rests, the President directs me to inform you that a treaty has been concluded between the United States and Texas, for the annexation of the latter to the former, as a part of its territory, which will be submitted, without delay, to the Senate for its approval. This step has been taken as the most effectual, if not the only means of guarding against the threatened danger, and securing their permanent peace and welfare.

It is well known that Texas has long desired to be annexed to this Union; that her people, at the time of the adoption of her Constitution, expressed, by an almost unanimous vote, her desire to that effect; and that she has never ceased to desire it, as the most certain means of promoting her safety and prosperity. The United States have heretofore declined to meet her wishes; but the time has now arrived when they can no longer refuse, consistently with their own security and peace, and the *sacred obligation imposed by their constitutional compact* for mutual defence and protection."

Again, in his letter to Mr. Green, our diplomatic agent at Mexico, announcing the signing of the treaty, he uses this strong language:

"And, in the next place, that the step was forced on the Government of the United States in self defence, in consequence of the policy adopted by Great Britain in reference to the abolition of slavery in Texas. It was impossible for the United States to witness with indifference the efforts of Great Britain to abolish slavery there. They could not but see that she had the means in her power, in the actual condition of Texas, to accomplish the objects of her policy, unless prevented by the most efficient measures; and that, if accomplished, it would lead to a state of things dangerous in the extreme to the adjacent States and the Union itself. Seeing this, this Government has been compelled, by the necessity of the case, and a *regard to its constitutional obligations*, to take the step it has, as the only certain and effectual means of preventing it."

Again, in a note to Mr. Packenham, with reference to the treaty, he says:

"It was made necessary, in order to preserve domestic institutions placed under the guaranty of their respective constitutions, and deemed essential to their safety and prosperity."

Such are the full and frank avowals of Mr. Upshur and Mr. Calhoun. Here we find southern gentlemen contending for the most extravagant exercise of power to sustain that inhuman institution. They do not restrain this exercise of power to our own country. No; they require us to go beyond the limits of the United States, and control the internal policy of foreign nations, in order to sustain, in the midst of us, an institution which our patriot fathers pronounced *a disgrace to the American character*. I will not stop to comment upon this wild and extravagant doctrine—a doctrine more extravagant and more at war with our free institutions than any which has ever been put forward in this country—but will content myself with saying, that it was adopted as the Democratic creed throughout the entire South, and was scarcely repudiated by the faithful of the Democracy in the free States.

To carry out this infamous doctrine the nation has been involved in an expensive and bloody war. To this end the war was commenced, and to this end it has been prosecuted. General Cass, the selected head of the Democratic party, virtually told us in December last, that the war would not be prosecuted but for the hope of extending slave territory. In his famous letter to A. O. P. Nicholson, esq., in stating his objections to the Wilmot proviso, he says: "I believe a general conviction, that such a proposition would succeed, would lead to an immediate withholding of the supplies, and thus to a dishonorable termination of the war. I think no dispassionate observer at the seat of Government can doubt this result." Thus was Texas annexed, the war commenced, and, if we believe this high Democratic authority, prosecuted for the purpose of acquiring slave territory. All the energies of the Government were put forth to that end.

But now, when the war is terminated, and terminated in the acquisition of territory, we are told, for the first time, that Congress has no power to exclude slavery from the newly acquired, or, indeed, from any territory belonging to the United States. They go further, and maintain that Congress has no constitutional right—no delegated power—to legislate for the Territories at all. A moment's reflection must satisfy any considerate man of the utter absurdity of both these positions. Who, but a strict constructionist of the Virginia school, would ever dream that we had any constitutional right to interfere with the domestic institutions of a foreign country? Who, but the advocates of outright nullification, would ever maintain that African slavery was such a primary object in the establishment of our free Government, that the people of the United States took upon themselves the *sacred obligation* of preventing its abolition among the nations of the earth? And who, but these same absti-actionists, would have the folly to maintain that the Constitution gives us full authority to acquire territory, but no right to govern or control it when acquired? These positions are so extravagant in themselves, so contradictory to each other, and so repugnant to the uniform action of the Government, that it seems a work of supererogation to refute them; but as they are gravely put forth on this floor, and repeated elsewhere, we will give them a brief examination.

The first question that naturally arises is, why are such extravagant views put forth? When men of sound minds have recourse to such vagaries, they have generally some object in view which they dare not avow. And what is the object here? The answer is obvious—to extend the institution of slavery; to increase the number of slave States, so as to give the South a perpetual preponderance in the councils of the nation.

But, Mr. Chairman, let us inquire into the power of Congress in the Territories. To an unsophisticated mind it would seem perfectly obvious that, if we have the power to acquire territory, we have the power to govern it. The latter is but an incident to the former. In a settled country, or one where the land is all appropriated, as is the case in most of the Mexican territory covered by the treaty, the only thing acquired, or that can be acquired, is the right of governing—the right of *eminent domain*, and of *jurisdiction*. If the territory be unsettled, or the land unappropriated, then acquisition implies the right of soil and of jurisdiction. This is the dictate of reason—the doctrine of common sense. This subject is too plain for argument. Propound this question to any unsophisticated person—to any man of the ordinary understanding—and he would tell you at once, that if you had power to acquire, you had power to govern.

This is also the doctrine laid down in the books on this subject. Vattel informs us, that the right of a people to a country implies two things: “1. The *domain*, by virtue of which the nation alone may use the country for the supply of its necessities, may dispose of it as it thinks proper, and derive from it every advantage it is capable of yielding. 2. The *empire*, or the right of sovereign command, by which the nation directs and regulates, at its pleasure, every thing they possess in the country.”

“When a nation takes possession of a country, to which no prior owner can lay claim, it is considered as acquiring the *empire* or the sovereignty of it, at the same time with the *domain*. For, since the nation is free and independent, it can have no intention, in settling in a country, to leave to others the right of command, or any of those rights that constitute sovereignty.” Vattel, book 1, chap. 18, sec. 204, 205.

This authority clearly sustains the position, that possessing the territory gives us a full and perfect right to govern and control it. And what is so obvious from the nature of the case, is not only sustained by the writers on public law, but is further sustained by the Constitution of our country. The 3d sec-

tion of the 4th article of the Constitution contains this provision: "Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory and other property belonging to the United States."

This general clause is amply sufficient to authorize Congress to establish Territorial Governments, and, in fact, to do any thing in the Territories not prohibited in the Constitution itself.

I am aware, Mr. Chairman, that an effort has been made recently, to limit the import of this clause. General Cass, in his letter before referred to, says: "The expression, 'the territory and other property,' fairly construed, relates to the public lands as such, to arsenals, forts, ships, and all the various kinds of property which the United States may and must possess. Territory is here classed with other property, and treated as such, and the object was evidently to enable the General Government, as a property-holder, which from necessity it must be, to manage, preserve, and dispose of such property as it might possess, and which authority is essential almost to its being. But the lives and persons of our citizens, with the vast variety of objects connected with them, cannot be controlled by an authority which is merely called into existence for the purpose of making rules and regulations for the disposition and management of property."

This new doctrine of General Cass, put forth possibly to please the faithful in certain parts of the country, is entirely superficial, and will not bear the test of examination for a moment. Because *territory* and *other property* are associated together, the General contends that territory must be synonymous with *land*, and that the clause simply confers the power to buy and sell it, as they would any other species of property, goods, or chattels. But does not the General know that territory may be held by a nation as property without their owning one foot of the soil, and that they may legislate for it, and make such laws as they may deem necessary? Does he not know that on this principle belligerents have no right to march troops through the territory of neutral nations? Take New Mexico and California, which we have already acquired by treaty, and suppose, as is probably the fact, that the public domain is already appropriated; and suppose Mexico should invade these territories, would not the gallant General be among the first to raise the cry that our *sovereignty* was encroached upon, and that the honor of the nation required us to defend ourselves and to maintain our supremacy within our own jurisdiction? Every person acquainted with the subject knows that the *property* of a nation in a territory is not confined to the right of soil. "We have already explained," says Vattel, "how a nation takes possession of a country, and at the same time gains possession of the domain and *government* thereof. That country, with every thing included in it, becomes the *property* of the nation in general. Let us now see what are the effects of this *property* with respect to other nations. The full domain is necessarily a peculiar and exclusive right; for if I have a full right to dispose of a thing as I please, it thence follows that others have no right to it at all; since, if they had any, I could not freely dispose of it." Book 2, sec. 79.

In this passage the term *property* is used in a broader sense than mere *land*; it implies *sovereignty* or *jurisdiction*.

Again, says Vattel: "The general domain of a nation over the lands she inhabits is naturally connected with the *empire*; for, in establishing herself in a vacant country, the nation certainly does not intend to possess it in subjection to any other power; and can we suppose an independent nation not vested with absolute command in her domestic concerns? Thus, we have already observed that, in taking possession of a country the nation is presumed to take possession of its *Government at the same time*. We shall here proceed farther, and

show the natural connection of these two rights in an independent nation. How could she govern herself at her own pleasure in the country she inhabits, if she cannot truly and absolutely dispose of it? And how could she have full and absolute domain of a place where she has not the *command?* Add to this the eminent domain, which constitutes a part of the sovereignty, and you will the better perceive the intimate connection existing between the domain and the sovereignty of a nation.

The sovereignty united to the domain establishes the jurisdiction of a nation in her Territories, or the country that belongs to her. It is her province, or that of her sovereign, to exercise justice in all the places under her jurisdiction, to take cognizance of the crimes committed, and the differences that arise in the country." Book 2, sections 83, 84.

Here, Mr. Chairman, we have the authority of Vattel for saying that a nation has *property* in her sovereignty, and that the right of domain implies the right of empire; that owning the territory gives absolute jurisdiction, and hence full legislative power over it. What, then, becomes of the miserable quibble about "territory and other property?" Territory is a species of property to a nation, though she may not own a foot of the soil. She may possess the soil—she must possess the eminent domain and jurisdiction, if she possesses the country. Even the ownership of the land would strongly imply jurisdiction. If we own the land we may decide whether it may or may not be settled; and if settled, we may prescribe the terms. We may require the inhabitants to observe certain rules or obey certain laws, or to maintain or exclude certain institutions.

The Territories which belong to the United States are and must be under their control. They have not only the right to dispose of the vacant or unappropriated lands, but they have the right of *empire* or *jurisdiction*, or *sovereignty*. They may legislate for the Territory, and may do any thing not expressly prohibited by the Constitution. This position is so clear and palpable, that argument seems to be unnecessary. But as the Democratic candidate for the Presidency, and several gentlemen in this House, have boldly asserted the opposite opinion, I will endeavor to fortify the position I have taken. Mr. Justice Story in his work on the Constitution says: "As the General Government possesses the right to acquire territory either by conquest or by treaty, it would seem to follow, as an inevitable consequence, that it possesses the power to govern what it has acquired. The territory does not, when so acquired, become entitled to self-government, and it is not subject to the jurisdiction of any State. It must consequently be under the dominion and jurisdiction of the Union, or it must be without any government at all. No one has ever doubted the authority of Congress to erect territorial governments within the territory of the United States, under the general language of the clause, 'to make all needful rules and regulations.' What shall be the form of government established in the Territories depends exclusively upon the discretion of Congress. Having a right to erect a territorial government, they may confer upon it such powers, legislative, judicial, and executive, as they may deem best. The power of Congress over the public territory is clearly exclusive and universal, and their legislation is subject to no control, but is absolute and unlimited, unless so far as it is affected by stipulations in the cessions." Vol. 3, pp. 193-198.

This construction of this clause of the Constitution is fully sustained by judicial decisions. And here I will venture to say, that though judicial decisions weigh nothing with the gentleman from Indiana, (Mr. WICK,) the better portion of the House intellectually considered, will place more confidence in the opinion of Judge Marshall, and his associates, given on full argument and due re-

lection, than upon resolutions adopted in a Democratic Convention in Indiana or elsewhere. In the case of schooner Exchange vs. M'Faddon and others, 7th Cranch, Judge Marshall says: "The jurisdiction of a nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitations not imposed by itself. All exceptions, therefore, to the full and complete power within its own territories must be traced up to the consent of the nation itself. They can flow from no other legitimate source."

Again, in the case of American Insurance Company vs. 356 bales of cotton, 1 Peters, the court say: "Until Florida shall become a State, she continues to be a Territory of the United States, governed by virtue of that clause in the Constitution which empowers Congress 'to make all needful rules and regulations respecting the territory and other property of the United States.'"

If we were to leave the whole matter here, there could be no reasonable doubt upon the subject. We have seen that the power of the Federal Government over the Territories grows out of the nature of the case, and is expressly provided for by the Constitution, and that the elementary writers, and the supreme tribunal of the land, both sustain this position. But the evidence does not stop here. The uniform usage of the Government fully corroborates this doctrine, and shows that the new discovery of General Cass and his compatriots rests upon no solid foundation.

But, Mr. Chairman, in order to simplify this subject, I will distinguish between the territory which belonged to the United States at the adoption of the Constitution and that which has been since acquired. What territory, then, belonged to the United States at the adoption of the Constitution? It was all included in what was then denominated the "northwestern territory," or "the territory northwest of the Ohio." And what was the condition of that territory at the adoption of the Constitution? It is worthy of remark that this territory had been ceded by New York, Virginia, Massachusetts, and others of the old thirteen, and in their deeds of cession they relinquished all *right, interest, and title, of soil, and jurisdiction*. Now, it is well known that the Congress of the Confederation had, in 1787, before the framing of the Constitution, ordained and established an ordinance as the fundamental law of that territory; and among the articles that were to remain unalterable was one which provided that "there shall be neither slavery nor involuntary servitude in said territory, otherwise than in the punishment of crime, whereof the party shall have been duly convicted."

"These articles of compact, between the original States and the people and States in the said territory," were known to the framers of the Constitution, and they expressly provided for their *continuance*. The 6th article of the Constitution contains this provision: "All debts contracted, and *engagements entered into*, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the confederation."

Here we have an express recognition and confirmation of the ordinance of 1787; it is recognised and practically adopted by the Constitution itself. That the framers of the Constitution meant to continue this ordinance in force, is evident from the fact that, in the first Congress, composed in no small degree of the very men who had framed or ratified the Constitution—these same men, during the first session under the Constitution, passed an act conforming some unimportant provisions in that instrument to the new order of things. The preamble of the act was in these words: "Whereas, in order that the ordinance of the United States, in Congress assembled, for the government of the territory northwest of the river Ohio, may *continue to have full effect*, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States." It was then enacted that certain communica-

tions from the Governor of the Territory should be made to the President, instead of Congress.

Here, Mr. Chairman, we have a full and clear view of the whole subject. All the territory we possessed at the adoption of the Constitution fell within the provisions of the ordinance of 1787. The Constitution recognised that compact, and gave it the stamp of a permanent instrument; and during the first session of the first Congress, composed, in a great degree, of the very men who framed the Constitution, they passed an act adapting some of the details to the Constitution, so that this compact, to use their own language, "may continue to have full effect." This places the ordinance on the firmest possible basis, and shows, beyond all controversy, that the Constitution invested Congress with full power to establish territorial governments, and to do anything and everything of a legislative character not prohibited by the Constitution. And to remove all doubt whether the absolute ~~prohibition~~^{abolition} of slavery was included in the powers conferred on Congress, one clause related to that very subject, and provided that slavery should be excluded from the territory. Here, sir, we have a provision excluding every from all the territory possessed by the United States at the adoption of the Constitution.

In April, 1790, North Carolina relinquished to the United States a portion of her territory west of the mountain; and in her deed of cession she provided that "no regulation made by Congress shall tend to emancipate slaves." On the 26th of May, 1790, a territorial government was established by Congress over the country thus ceded. Here, again, we have a full recognition, both by Congress and by North Carolina, that the United States have absolute jurisdiction in the territory, and an undoubted right to abolish slavery therein, unless restricted by a compact with the State.

The act of 1793 in relation to the return of fugitive slaves is made to apply to Territories as well as to States, thereby implying that Congress has absolute jurisdiction in her Territories.

In the act establishing the Mississippi Territory, passed April 7, 1798, it was provided that the ordinance of 1787, except the clause excluding slavery, shall be in force in that territory. In 1800, when the Indiana Territory was established, Congress reaffirmed the ordinance of 1787. In 1804, when Louisiana was divided into two Territories, the right of approving or annulling their laws was reserved by Congress. Congress also made these Territories subject to the law of March 22, 1794, and the law of February 28, 1803, in relation to the slave trade. These statutes show incontrovertibly that Congress, at that time, supposed that they possessed absolute sovereignty in all their territorial possessions.

The famous Missouri compromise fully sustains the views I have advanced. In that act, passed March 6, 1820, it was stipulated, "That in all the territory ceded by France to the United States under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the State (Missouri) contemplated in this act, slavery and involuntary servitude, otherwise than in punishment for crimes, whereof the party shall have been duly convicted, shall be, and is hereby, forever prohibited." The act establishing a territorial government in Florida, passed March 30, 1822, reserved to Congress the right of annulling all laws that might be passed by the territorial legislature. Even in the joint resolutions for the annexation of Texas it was provided that the Missouri compromise line should bound slavery in that territory.

These are some of the principal acts which show the power of Congress over the Territories. In every one of them the doctrine of absolute sovereignty is admitted; and slavery is specially mentioned in most of them as a subject on which Congress has full power to legislate. In every instance where it is

provided that Congress shall not abolish slavery, or that the ordinance of 1787 shall not apply, the full power of Congress is as completely recognised as in those cases where the power is exercised. For, if Congress had not the power, these prohibitions would be entirely useless. And the fixing of the Missouri compromise line is evidence that the power of Congress is absolute on the subject. If they had constitutional authority to exclude it north of that line, they had power to exclude it north or south of any other line which should fall within our territory.

[Mr. MEADE, of Virginia. That was a compromise.]

A compromise! But do not gentlemen tell us that the Constitution gives us no power to legislate upon slavery at all? And will these gentlemen who possess such a profound regard for the Constitution admit that they consented voluntarily to violate it? Is this their boasted devotion to that sacred instrument?

Thus it will be seen that the ordinance of 1787 applied to all the territory which originally belonged to the United States, and, as other territory was acquired, the same sovereign prerogative was exercised, and, in most cases, the same absolute control over slavery has been recognised, either affirmatively or negatively, thereby showing the most ample constitutional power to exclude slavery from any territory belonging to the United States, however it may have been acquired. And I now ask of you, Mr. Chairman, whether it is possible to make out a stronger case? We have seen that the writers on elementary law, that the Constitution of the United States as interpreted by its own authorized expounders, the Supreme Court, and the whole course of legislation, from the organization of the Government, all concur in giving to Congress power to erect territorial governments, and to perform all such acts of sovereignty as are not expressly prohibited by the Constitution. What, then, becomes of the puerile efforts of General Cass and his southern allies to prove that Congress has no power of general legislation over the Territories of the United States? There is no soundness in the new position they assume. It is a new theory, brought forward to sustain the institution which some gentlemen appear to have nearest to their hearts.

I will give one more authority, which I suppose will be controlling with certain gentlemen—I mean the authority of the Democratic candidate for the Presidency. Until the gallant General found that it was necessary for him to recommend himself to his southern friends, he himself maintained that Congress had full powers in the Territories. In his zeal for the whole of Oregon he contended that it was the duty of Congress to terminate the joint occupancy, and establish a government, or extend our laws over that territory. In a debate in the Senate, December 15, 1845, he uses this language:

"If we do not provide the people of Oregon a government they will provide one for themselves. I take it for granted that we shall give the notice recommended by the President, for, if we do not, we shall leave the people of Oregon without a government, or with an impracticable one."

So intent was General Cass upon extending our laws over that country, that he urged it with all his power, though he admitted that the measure would render a war with Great Britain "*inevitable*."

But now it seems that he has just learned that we have no other authority in the territory than to dispose of the public land! I will not stop to inquire into the cause of this great change of opinion. Formerly, when he held the office of Governor in the Territory of Michigan, it seems that he had no doubt but that the General Government had ample power to place him at the head of that territorial government; and, when he was desirous of bearding the British lion in Oregon, he found ample power in the Constitution to extend our laws over that territory, even though a portion of it was in dispute, and in the actual occupancy of Great Britain. But a change has come over the spirit of

his dream; and now he thinks just as the Democracy of the South think, that we have no constitutional power to set up a government in Territories which we may rightfully acquire!

But I will not pursue this subject further. The right of acquiring territory necessarily implies the right of governing it. It would be the perfection of weakness and folly to say that we can acquire what we cannot govern or control. According to this strange doctrine, we may, as we have, commence a war of conquest, expend millions of money, and sacrifice thousands of lives, and then by treaty pay fifteen millions more for the worthless provinces of Mexico; and after this territory is acquired at such an immense cost, lo, and behold, the very authors of this war and conquest may discover that we cannot govern the territory we have obtained! The bare statement of the case furnishes its best refutation.

But the gentleman from South Carolina (Mr. RHETT) has informed us, that the territory so acquired does not belong to the United States, as a *nation*, but to the States respectively, and that a person going from any of the States to reside in such territory continues to be a citizen of the State from which he emigrated, and is, in the territory, under the protection of the laws of such State. This, I confess, is a new and original idea; a refinement in constitutional law well worthy of the State from which that gentleman hails. The practical workings of this theory will best show its absurdity. Suppose a township to be settled by emigrants from every State in the Union; they would have thirty different codes of law within a district six miles square. This would be "confusion worse confounded;" a jargon, compared with which the confusion of tongues at Babel would be the "music of the spheres." But how would the "peculiar institution" fare in such a settlement? Every other quarter section might be owned by men from the free, and the intermediate ones by men from the slave States. If my friend from South Carolina was there with his slaves, and he should send them with a message to a neighbor's, and they should happen to step upon free territory, their fetters would fall, and they would become free. Or, if a free colored man, from any free section, should happen to come upon the gentleman's plantation, he would be seized, imprisoned, and sold into slavery to pay his jail fees. This would produce a state of society worthy of my friend's contemplation. In controversies between citizens of different States, what code of laws should prevail; or how could the laws of any State be executed? But the gentleman tells us, that if slavery should be excluded from the Territories, it would operate unjustly, as it would deprive slaveholders from going there with their property. But the same objection lies against the laws of every State in this Union—against the laws of the gentleman's own State. A man removing from the country to the city in any of the States, is frequently deprived of the use of property which he might lawfully enjoy in the country. An owner of real estate, in the country, may erect a slaughter-house upon it, but if his land were situated in the midst of a city, he would have no right to use it in the same manner. In the latter case a slaughter-house would become a nuisance, which the public would have a right to abate. So in the case before us. The gentleman has no just ground of complaint, if his slaves are excluded from the territory of the United States, on the ground that slavery is a nuisance—a political and moral evil—totally inconsistent with our institutions, and destructive of the best interests of the territory itself.

Mr. Chairman: Having, I trust, shown, beyond all controversy, that Congress has full and exclusive jurisdiction in the Territories, and may, if it pleases, exclude slavery therefrom, the practical question arises, whether we ought to exercise this power? This question naturally resolves itself into another, viz: whether slavery be an evil? If it be a damning sin, or even if it be a calamity

or a misfortune, every good man, every patriot, will feel it to be his duty to exclude it from our territorial possessions. That slavery is an evil, no man on sober reflection will deny. I am aware that there are some gentlemen on this floor, who have asserted that slavery is a blessing; but this cannot be their sober judgment. Under excitement, they may attempt to justify the holding of fellow-men in bondage, but on reflection they must feel and know that the institution is founded in injustice.

That slavery is a great political evil, no reflecting man can deny. In a pecuniary point of view, it is a burden to any community where it exists. The idleness which it induces, the degradation of labor which naturally arises from it, mark it every where as a withering curse to the community, too plain and palpable to be denied. Compare the State of Virginia with the State of New York. Nature has been more lavish of her gifts to the former State than to the latter. With a beautiful bay extending into her territory, with several large rivers navigable to the base of her mountain regions, which are rich in mineral treasures—with water power sufficient to manufacture for the world—with a climate salubrious and a soil luxuriant—with all these natural advantages, Eastern Virginia looks like “the abomination of desolation spoken of by Daniel the prophet,” when compared with her sister of the North, less favored by nature than herself. A comparison of Kentucky with Ohio will show the advantage of free over slave labor. I cannot better describe the condition of the old slave States, than by adopting the language of an honorable gentleman from North Carolina, (Mr. RAYNER,) uttered upon this floor some years since:

“I know not,” says he, “how it is with the Northern Atlantic States, as I have never visited that region; but let any one travel throughout the South, and he will see that my position is correct. He will see the very soil, consecrated by having been the battle grounds of the Revolution, being fast converted into its original waste. He will see that the descendants of the very men who originally subdued the soil, and of those who afterwards rescued it from British power, have, like the aborigines themselves, deserted the graves of their fathers for more prosperous climes. He will see nothing calculated to enliven his feelings or exalt his hopes as to future destiny. He will see the foot prints of ruin and desolation in every direction. He will see our once fertile but now barren fields, choaked up with briars, or browsed by lonely herds. He will see the remnants of mansions, once the abode of refinement and gaiety, now tumbling into desolation and ruin. He will see the neighboring trees, under whose quiet shade their once happy tenants reclined, withering and decayed. He will see the very graves of their once proud owners, either without enclosures, or the plough of some neighboring cottager trenching on their confines. He may find some aged servant of the family lingering around the home of his early days, and if he ask him where are all the sons and grandsons of the former owner of these possessions, he will receive for an answer, ‘they are all gone to the far West.’”

Such is a true picture of the old slave States as drawn by one of their most talented sons. And what has produced this desolation? The reason is obvious. The poisonous sirocco of slavery has blown over the land. A moral pestilence has desolated the country. The laws of nature and of nature’s God have been violated, and the retributions of a just Providence have overtaken them. “He turneth the rivers into a wilderness, the water-springs into dry ground; a fruitful land into barrenness, for the wickedness of them that dwell therein.”

But the institution of slavery is a political evil in another respect; it weakens a State not only in its pecuniary but in its physical resources. It is an element of danger; it contains the seeds of insurrection. If we believe the representations which southern men frequently make upon this floor, they regard themselves as sleeping upon a volcano—as reposing upon a magazine, to which a torch may at any moment be applied, producing the most awful consequences. Who, then, would wish to extend such an institution into territory now free? But, as southern gentlemen regard us of the North as fanatics, I will give my views of this institution in the language of southern men—men who have never been suspected of fanaticism. When the first tariff bill was under consideration in 1789, Mr. Parker, of Virginia, moved to insert a clause imposing a duty of ten

dollars upon each slave imported into the United States. He said, "he hoped Congress would do all in its power to restore to human nature its inherent privileges, and, if possible, wipe off the stigma under which America labored. The inconsistency in our principles, with which we were justly charged, should be done away, that we may show by our actions the pure beneficence of the doctrine we hold out to the world in our Declaration of Independence."

The members from South Carolina and Georgia opposed the motion, on the ground that they had not their full supply of slaves. In reply to them Mr. Madison said: "Every addition they receive to their number of slaves tends to weaken and render them less capable of self-defence. In case of hostilities with foreign nations, they will be the means of inviting attack instead of repelling invasion. It is a necessary duty of the General Government to protect every part of the empire against danger, as well internal as external. Every thing, therefore, which tends to increase danger, though it be a local affair, yet, if it involves national expense or safety, becomes of concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of the Government."

Here, Mr. Madison, a man of whom not only Virginia but the country has reason to be proud, declares that slavery tends to weaken a State; and hence the National Government, which is bound to protect every State, should interpose her power to prevent this cause of weakness—this element of foreign and domestic war. This is precisely what we ask here. Slavery transplanted to frontier soil would be the cause of perpetual difficulty with our neighbors. And it would weaken us as a nation. Does not every one know, that in case of a war with Great Britain, she would take advantage of the existence of slavery, and make a descent upon the southern coasts? And what patriot can desire to extend this element of weakness? But slavery is a great moral as well as political evil. So long as oppression is a moral wrong, slavery will stand forth as one of the crying sins of the land. To convert men into chattels, and expose them at public sale, tearing husbands from wives, and children from parents; to degrade human beings, created in the image of God, and render them mere beasts of burden; to deprive them of all means of cultivating their moral nature, and of reading the word of eternal life—if this be not a moral wrong, I know of nothing which is worthy of that appellation. I shall not go into details, or attempt to point out the numerous social evils which must result from that institution, from the very nature of things. I am willing to allow that the masters are generally kind, and that even self interest would prompt them to treat their slaves with indulgence. I am willing to admit all the palliation which can be urged in favor of the institution. But nothing, in my estimation, can justify it. It begins in a wrong, in a violation of the first principles of natural right, that of enjoying personal liberty, and the fruit of one's own labor. And this first violation of moral right must of necessity lead on to others. "Disguise thyself as thou wilt, still slavery, still thou art a bitter draught; and though thousands have been made to drink of thee, thou art no less bitter on that account."

Believing slavery to be a moral and a political evil, I feel it my duty to use my influence to exclude it from the Territories. I should be false to myself, to my constituents, to my country, and even to the territories themselves, did I not do all in my power to save them from this calamity.

[Mr. SAWYER, from Ohio, here rose and inquired whether the member from Massachusetts would permit him to ask him a question. Mr. H. yielding, Mr. S. said, will the gentleman from Massachusetts inform me whether Gen. Taylor is opposed to extending slavery into the Territories?]

I will give the gentleman from Ohio such an answer as his interrogatory merits. When General Cass, on his way to Michigan, arrived at Cleveland the other day, he was introduced to the assembled Democracy by Judge Wood.

The Judge, in the fulness of his heart, remarked that the General had been grossly misrepresented by the Whigs, who had asserted that he was *opposed to harbor and river improvements*, and was in *favor of extending and perpetuating slavery*; and as the people had strong feelings on these subjects, he hoped their distinguished guest would disabuse the public mind upon these matters. And what was the gallant General's reply? Why, he told them that the assembly was so vast, and their demonstrations of joy were so great, that he could not be heard on these important topics at that time. This reply will, I have no doubt, be perfectly satisfactory to my friend from Ohio.

There is truth and justice in the remark that the present generation at the South are not responsible for the existence of slavery among them. The evil has been entailed upon them. But if the guilt of the introduction of slavery into the present slave States is chargeable to past generations, its introduction into the Territories would be justly chargeable upon ourselves. And can men who believe slavery to be a great evil, a political incubus, tolerate for a moment the idea of extending it over territory now free? I am aware that northern men who speak their sentiments freely upon this subject are denounced as *fanatics* and *hypocrites*, but these denunciations have no terror for me. If to sympathize with the oppressed and down-trodden be fanaticism, I am willing to be called a *fanatic*. If a desire to limit a corrupt and corrupting institution be hypocrisy, I glory in being called a *hypocrite*. If a wish to save the nation from disgrace, and free soil from a withering blight, be treason to the Union, set me down as a *traitor*. I say no more, I feel no more, on this subject than was said and felt by the fathers of the republic—by Washington, Madison, and Jefferson, in their day. Mr. Jefferson, in his draught of the Declaration of Independence, enumerated among the enormities of the King of Great Britain, which were too great to be endured, the accursed policy of planting slavery in these colonies, which ought to have been the abode of freedom alone. He charges the Crown with this enormity in the following strong language:

"He has waged a cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur a miserable death in their transportation thither; this piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian King of Great Britain; determined to keep open a market where *men should be bought and sold*, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce."

Such is the language of Mr. Jefferson; and the traffic in flesh and blood is as odious now as it was then, and is far more inconsistent in us than it was in the King of Great Britain. Far less excusable in this age of the world than it was seventy years ago. And still in this country, with all our boasted light on the subject of human liberty, a man who employs the language of Washington, Madison, and Jefferson—those statesmen and sages of Virginia—is now denounced by Virginia's boasted but degenerate sons. But no denunciation from that or any other quarter will have the least influence upon me. I will speak as I think, and act in obedience to the dictates of duty, regardless of any taunts or sneers from any quarter. I have no disposition to employ vile epithets or to indulge in denunciation. I wish to give full force and credit to all the palliatives which can fairly be offered in relation to the subject. But these can never justify the institution itself. I am free to admit that severe and stringent laws may be necessary to keep the slaves in subjection, and that summary discipline may be requisite to preserve order among the slave population; these may be allowed as the natural incidents of the institution. But it is a strong objection to the institution itself, that it must carry in its train incidents so abhorrent to every principle of justice and humanity.

[Mr. HILLIARD, of Alabama, here rose and inquired whether the number of slaves would be increased by being transferred to other soil, or whether the

number would not remain precisely the same, or an increase of physical comforts be produced by transporting them to another section.]

I will answer the gentleman with the greatest pleasure. There was a time when Virginia was desirous of manumitting her slaves; this event was contemplated at the adoption of the Constitution. But the culture of cotton which sprung up in the South, and the purchase of Louisiana, both created a demand for slaves, and increased the value of that species of property, and hence increased the motive to rear them. I shall not go into this subject minutely, but I will state a case which my friend will readily comprehend. A gentleman in Virginia, for example, finds his slaves unprofitable in cultivating his own soil; his only profit consists in rearing them for the market. If there is a new market opened, and a new demand created, will he not be likely to take measures to increase the production to meet the demand? I believe that the principle of supply and demand will operate here as it does in articles of traffic.

[Mr. HILLIARD further inquired whether an increase of population did not usually follow the increase of physical comforts; and if it were a question of humanity, ought not the gentleman to advocate physical comforts which resulted from this increase of population.]

Sir, an increase of physical comforts is undoubtedly a blessing, where the individual himself is permitted to enjoy the rights which God and nature have given him; but when deprived of these rights, it becomes a serious question, whether existence under these circumstances is a blessing. The gentleman sometimes delights us with his eloquent eulogies on the blessings of liberty. He would undoubtedly say, with me, "a day, an hour, of glorious liberty, is worth a whole eternity of bondage;" and if we believe that our fellow man, who is "guilty of a skin not colored like our own," has any of that feeling of a man, any of that love of liberty, which raises him above the brutes that perish, many of them might justly wish that they had never been born, rather than "groan and sweat under a weary life," and also under the cruel lash of an unfeeling task-master.

Mr. Chairman, I opposed the annexation of Texas because I believed that it was designed to extend the institution of slavery. I have opposed the war, because I believed it was commenced without authority of law, and was prosecuted for the same infamous object. I warned the House then against granting supplies, on the ground that it would eventuate in the acquisition of territory, over which it would be attempted to establish slavery. But the Democrats, and a large portion of the Whigs, have suffered themselves to be carried on by the current, until we are now brought to the crisis which was then foreseen. And how will the members of this House act now? I do not ask how the South will act; they will generally unite, and permit slavery to extend its withering blight over what is now free territory. But what will the North do on this important subject? Will they stand upon the principles of the Constitution, and be true to the cause of liberty, of which our nation boasts? I rejoice in the belief that many of them will. The Whigs from the North generally, and some of the Democrats, will be true to themselves and to the cause of human freedom, and will manfully resist the attempt to extend servitude over territory now free. They will not so far degrade and disgrace themselves as to re-establish in New Mexico and California an institution which even the barbarism of Mexico could not tolerate.

But, Mr. Chairman, judging from what we have seen, we have reason to expect that northern men will not be wanting who will bow before this modern deity, and sacrifice human beings at his shrine. But they should remember that this inexorable divinity requires his worshippers to "pass through the fire to Moloch." The day I trust is not far distant when the votaries of this idol will be made to feel the scorching flames of public indignation, and that men

who represent the people of the free States will learn that treachery to northern interests, and disregard to northern feeling, will be a passport, not to honor, but to infamy. While the South stand together as one man on all questions connected with that institution, it becomes northern men to do the same. I do not wish to create sectional feelings, or raise sectional questions; but when such issues are forced upon us, as they have been for the last three years, I am prepared to meet them. But, when any such question is presented to us, we have always found men enough from the free States to vote with them, to enable them to carry all their odious measures. I can respect a southern man who acts from his impulses, from the principles in which he has been educated, from the spirit of the section to which he belongs, and in some cases I am bound to say, from honest conviction; but I have but little respect for those pliant tools of the slave institution residing in the free States, who sacrifice what little of principle they possess for office; and who would doom thousands of human beings to servitude that they themselves might fatten at the public crib.

The institution I have been considering degrades the American nation in the eyes of the civilized world. While we are boasting of our liberties, and holding ourselves up as the model Republic of the world, we are tolerating in our own capital an institution which no nation in Europe would permit to exist within her borders. Public sentiment in the old world is setting towards freedom. Not only Great Britain, but France and Portugal are about giving liberty to their captives, and we at the same time are deliberating upon extending the blight of slavery over Territories now free. The same men who are so anxious to congratulate France on the emancipation of slaves in her colonies, have always been found, and I fear will again be found, ready to forge fetters for the unfortunate Africans in our own country.

Entertaining the views I entertain, I can never by my vote doom human beings to servitude who have been guilty of no crime. I should be false to myself—to every principle of humanity—to every sentiment of honor, were I to do it. Slavery in the States is beyond the reach of this Government. Over it as a State institution I have no control. But when it is proposed to extend the institution into free territory, it becomes a matter of national concernment, and God forbid that I should record my vote to extend and enlarge its present area, or pollute with this institution one foot of freedom's sacred soil.

[Mr. LAHM, of Ohio, rose to ask a question—entertaining the views the gentleman had expressed on the subject of slavery, would he vote for General Taylor for President?]

I will answer the gentleman from Ohio. He knows, I presume, that there are two classes of men in this country devoted to the institution of slavery; a class from the South, who living with the institution about them, and all their early associations being connected with it, have reconciled themselves to it, and see less evil in it than northern men are supposed to see; some may even believe that under all the circumstances of the case, it is no moral wrong—though all admit that it is a calamity.

(Here the hammer fell, and the hour expired; but Mr. Ficklin having obtained the floor, kindly yielded it to Mr. Hudson, who continued.)

There is another class from the North, who are often known as *dough-faces*, who regard the institution precisely as I do; but who, nevertheless, for the sake of the loaves and fishes, are willing to bow to the slave power—to the slave institution—to do anything and every thing for the purpose of promotion. Now, if I am called upon to select between men of these descriptions—if I am compelled to vote for either, I should vote for General Taylor in preference to Gen. Cass, just as I would vote for an honest man in preference to a *hypocrite*.